

Virginia Alcohol Laws Applying to Sellers and Servers

Underage Sales

No sales are permitted to underage persons, who are defined under ABC law as persons less than 21 years of age (COV § 4.1-304)

Do not allow a person less than 21 years of age to possess or consume alcoholic beverages on the licensed premises (COV § 4.1-305)

Sales to Intoxicated

Do not sell or serve alcoholic beverages to intoxicated persons, or allow someone else to purchase alcoholic beverages for intoxicated persons. (COV § 4.1-304)

Do not allow an intoxicated person to consume or possess alcoholic beverages on the premises of your business. (COV § 4.1-305)

Do not allow an intoxicated person to loiter on the premises of your business. (COV § 4.1-225)

Selling alcohol to an intoxicated person is also an offense that can result in criminal prosecution and administrative penalties (consequences are the same as selling to underage persons).

Consequences

The underage or intoxicated person trying to purchase alcohol has committed a Criminal Act that is classified as a Class 1 Misdemeanor. As a result, he or she can be fined up to \$2,500 and/or sentenced to one year in jail.

The employee making the sale has committed a Criminal Act that is classified as a Class 1 Misdemeanor. As a result, he or she can be fined up to \$2,500 and/or sentenced to one year in jail.

For a first offense, the licensee (the establishment with the ABC license) can be fined up to \$2,000 or their license can be suspended for up to 25 days.

By selling alcohol to an underage, intoxicated, or interdicted person, whether the sale was intentional or not, you are exposing yourself to the same penalties as the person purchasing.

Second Party Sales

Do not sell alcoholic beverages to anyone, even if they are of age, whom you know or believe is buying on behalf of an underage person. (COV § 4.1-306)

Look for signs that may indicate that someone over 21 is buying alcohol for underage persons:

- Money being passed from a younger to an older person
- Drinks sitting between people on the table
- Carload of people in parking lot, only one person gets out
- One person carrying multiple cases of alcohol, while person with them carries nothing

It is your responsibility to refuse the sale. A violation of this code is also a Class 1 Misdemeanor.

Time of Alcohol Sales

Off-premise sales are not permitted between 12 a.m. and 6 a.m.

On-premise sales are not permitted between 2 a. m. and 6 a. m.

(3 VAC 5-50-30)

See exceptions at 3 VAC 5-50-30.B

If a licensee sells alcohol during these restricted hours, the person who makes the sale can be charged criminally.

Age of Employees

-Under 18

Can sell off-premise as long as on-duty ABC manager is on the premise. Employee must have proper work permit.

-18 and over

Can work as waiter or waitress in a mixed beverage establishment.

-21 and over

Can be a bartender and ABC manager.

(3 VAC 5-50-50)

In a mixed beverage licensed establishment, no employee working in the capacity of a server can be under the age of 18. No bartender can be under the age of 21. Staff such as busboys, cooks, and kitchen help can be of any age, pending they have a work permit.

An individual who is 18 years old may act in the capacity of a bartender in an establishment that only serves beer.

Designated Manager

An ABC manager must be on the premises whenever a licensee is open for business.

ABC managers must be:

- At least 21 years of age
 - On-duty at all times
 - Be responsible for overseeing all business conducted under the license while the establishment is open and for posting his or her name clearly
- (3 VAC 5-50-40)

All licensees must always have at least one ABC manager on duty who can satisfactorily speak and read English.
(COV 4.1-222)

Sales in Unauthorized Place or Manner

Certain areas of an on-premise licensed establishment are designated areas for alcohol consumption. Alcohol cannot be consumed in areas not designated.
(3 VAC 5-50-110)

When your ABC license is issued, certain areas in the establishment are identified as "designated areas" for alcohol consumption; these are typically dining rooms, banquet rooms, the bar area, etc. If an area is not designated, then alcohol cannot be consumed in that location. For instance, if a patio behind a restaurant has not been classified as a designated area by ABC, and alcohol is sold or consumed there, it is a violation of administrative law. The person who is consuming is considered by law to be drinking in public.

Employee Consumption of Alcoholic Beverages

An employee who is on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers in a mixed beverage, or wine and beer establishment, cannot consume any type of alcoholic beverage while on duty. He or she can be charged criminally with a Class 1 misdemeanor. Licensees could receive a fine or a suspension.
(COV § 4.1-325)

Happy Hours and Advertising

- It is unlawful to conduct a happy hour between the hours of 9 p.m. and 2 a.m.
 - A person cannot possess more than two drinks at one time.
 - It is illegal to sell pitchers of mixed beverages, sell two or more drinks for one price, giveaway drinks, sell unlimited drinks for one price, or advertise happy hour in the media or on exterior advertising.
- (3 VAC 5-50-160)

Penalties

- Licensees can be charged criminally and administratively for certain offenses.
 - An ABC hearings officer assesses administrative charges.
 - Administrative penalties can be probation, fines, a suspended license, and possibly, revocation of the licensee's ABC license.
- (Administrative penalties for first offenses -link to penalties)